

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

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| Appellants: Riou et al. | CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below. |
| Title: PRINTING SYSTEM CONDENSOR | <i>Todd A. Rathe</i> (Printed Name) |
| Appl. No.: 10/698511 | (Signature) |
| Filing Date: 10/31/2003 | (Date of Deposit) |
| Examiner: Fidler, Shelby Lee | |
| Art Unit: 2861 | |

REPLY BRIEF ON APPEAL

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is in response to the Examiner's Answer mailed on June 17, 2008. For the following reasons, Appellant respectfully requests that the Board reverse all claim rejections and indicate that a Notice of Allowance respecting all pending claims be issued.

The disputed issues of this appeal can be "condensed" into two main questions: (1) would it be obvious to modify a condensate accumulator based upon teachings relating to a print cartridge that collects waste ink from priming of the print cartridge nozzles (claims 1, 27 and 30) and (2) would it be obvious to modify a condenser based upon teachings related to a heat sink (claims 41 and 42)? The answer to both questions is no.

I. It would not be obvious to modify the condensate accumulator of Ryan based upon the teachings of Bob which strictly pertain to a print cartridge that collects waste ink from priming of the print cartridge nozzles.

In contrast to following what is ACTUALLY taught by Nakazawa, the Examiner appears to be selectively picking and choosing features from multiple references while specifically ignoring the actual context or environment in which such features are disclosed. In particular, the Examiner ignores the actual context of Nakazawa. The ink cartridge of Nakazawa has nothing to do with storing condensate. The receptacle of Nakazawa is NOT a condensate receiving receptacle. In contrast, the ink cartridge disclosed by Nakazawa is for a completely different purpose: receiving waste ink resulting from the priming for cleaning of the recording head 9 (see Figure 6 and column 6, lines 7-24 of Nakazawa). The "waste ink" referred to in the Nakazawa is not condensate, but is waste ink resulting from the priming of the print head. Neither Brinkly nor Nakazawa provide any motivation or suggestion for replacing vessel 116 of accumulator 102 of Brinkly with the ink cartridge of Nakazawa.

Once again, Nakazawa discloses a removable receptacle for receiving waste ink, not condensate from a condenser. The Examiner fails to provide any support or motivation for its selective picking and choosing features from references while selectively ignoring other features or the context of the features in the disclosing references. Rather, it appears that the Examiner is selectively picking and choosing features while ignoring others using Appellants' own disclosure as a blueprint for such subjective "decisions".

Moreover, even assuming, arguendo, that it would somehow be obvious to combine the teachings of Brinkly and Nakazawa, the resulting hypothetical combination would still fail to result in a printing system having a removable condensate receiving receptacle. In contrast, the resulting hypothetical combination would, at best, constitute the print engine 22 of Brinkly additionally including the ink cartridge 2 of Nakazawa for supplying ink and for storing waste ink resulting from the priming of the print head of print engine 22 of Brinkly. Accumulator 102 would

remain as taught by Brinkly. Taking into account the entire disclosure or "four corners" of the documents relied upon, one of ordinary skill in the art will be led to produce a combination entirely different from that alleged by the Examiner.

The Examiner's response

In an attempted response to such previously raised points, the Examiner argues that Appellant "seems to be considering the references individually, and not in combination." (Examiner's Answer, page 17). However, this is not true. Appellants have correctly pointed out that neither individual reference is remotely related to the other in its teachings. As a result, one of ordinary skill in the art would not modify Ryan based upon Bob.

In fact, it is Examiner's characterization of the references that appears to be myopic. As noted above, it is the Examiner who is selectively picking and choosing features from a reference while ignoring other features from the exact same reference in order to support the rejection of claims. The Examiner seems to overlook that one of ordinary skill in the art, following the ACTUAL teachings of Bob would, at best, modify the print engine 22 of Brinkly to additionally include the ink cartridge 2 of Nakazawa for supplying ink and for storing waste ink resulting from the priming of the print head of print engine 22 of Brinkly. Accumulator 102 of Ryan would remain as taught by Brinkly.

The Examiner attempts to dismiss this fact by arguing that it is moot as not addressing the applied rejection. However, it is entirely relevant as it evidences that the Examiner's hypothetical combination in her applied rejection is improper as ignoring the actual teachings of the references. Accordingly, the rejection of claims 1-14, 17-22 and 27-39 based at least in part upon Ryan and Bob should be reversed.

II. It would not be obvious to modify the condenser of Ryan based upon the teachings of Andrew pertaining to a heat sink.

Claim 41 recites a condenser having a plurality of fins that converge from an inlet side proximate any dispenser to an outlet side distant ink dispenser. Claim 42 recites that the condenser includes a plurality of fins converging from an inlet side proximate the dispenser to an outlet side distant of the ink dispenser.

As previously pointed out, neither Brinkly, Nakazawa, Anderson nor Azar, alone or in combination, discloses or suggests a condenser having fins that converge from an inlet side proximate in the dispenser to an outlet side to send any dispenser. The Examiner acknowledges that neither Brinkly, Nakazawa nor Anderson discloses such a condenser. As a result, the Examiner attempts to additionally rely upon Azar by asserting that:

Azar discloses a plurality of fins (plate fans 101) that are thermally coupled to a heat producing electronic component (col. 1, lines 8-13 and Figs. 10A and 10B).

(Examiner's Answer, page 15).

However, fins 101 of Azar are **not** on a condenser. In contrast, fins 101 of Azar are on a heat sink. A heat sink is not a condenser and a condenser is not a heat sink.

The Examiner's Response

In an attempted response to such points, the Examiner simply makes the unsupported conclusory statement that: "the rejection shows that it would have been obvious to utilize converging fins, such as those disclosed by Andrew, onto the existing thermoelectric module, which acts as the condenser." (Examiner's Answer, page 20).

However, this assertion has no support and lacks merit. Nowhere does the Examiner point to any evidence why one of ordinary skill in the art would modify a condenser based upon the construction of a heat sink. As those of ordinary skill in the art know, a condenser is substantially different from a heat sink. Once again, the Examiner appears to be selectively picking and choosing features from a first device and creatively adding it to a completely non-analogous different device using

Applicant's own disclosure as a blueprint. Accordingly, the rejection of claims 41 and 42 should be reversed for this additional reason.

III. Conclusion

In view of the foregoing, the Appellants submit that **(1)** claims 1, 6, 10, 12, 13, 18-20, 22, 27-30, 33-36, 39 and 43 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,397,488 (Brinkly) in view of US Patent 6,281,911 (Nakazawa) and are therefore patentable; **(2)** claims 2-4, 7-9, 21, 31 and 32 are not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,397,488 (Brinkly) in view of US Patent 6,281,911 (Nakazawa) and further in view of U.S. Patent No. 6,176,563 (Anderson) and are therefore patentable; **(3)** claim 5 is not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,397,488 (Brinkly) in view of US Patent 6,281,911 (Nakazawa) and further in view of U.S. Patent No. 6,176,563 (Anderson) and US Patent No. 6,085,055 (Shin) and is therefore patentable; **(4)** claims of 11 and 38 are not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,397,488 (Brinkly) in view of US Patent 6,281,911 (Nakazawa) and further in view of US Patent 6,512,900 (Sakai) and are therefore patentable; **(5)** claim 14 is not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,397,488 (Brinkly) in view of US Patent 6,281,911 (Nakazawa) and further in view of US Patent 6,203,138 (Hirabayashi) and is therefore patentable; **(6)** claims 17 and 37 are not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,397,488 (Brinkly) in view of US Patent 6,281,911 (Nakazawa) and further in view of US Patent 6,357,854 (Igval) and are therefore patentable; **(7)** claims 40-42 are not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,397,488 (Brinkly) in view of US Patent 6,281,911 (Nakazawa) and further in view of U.S. Patent No. 6,176,563 (Anderson) and US Patent No. 6,269,002 (Azar) and are therefore patentable.

Summary

For the foregoing, it is submitted that the Examiner's rejections are erroneous, and reversal of the rejections is respectfully requested.

Dated this 18th day of August, 2008.

Respectfully submitted,

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